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FISCAL IMPACT STATEMENT

LS 6995

BILL NUMBER: HB 1389

NOTE PREPARED: Jan 23, 2015

BILL AMENDED:

SUBJECT: Crimes and Persons with Intellectual Disabilities.

FIRST AUTHOR: Rep. McNamara

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: Local

Summary of Legislation: This bill has the following provisions:

- A. *Forensic Diversion Program for Persons with Intellectual Disabilities* – It defines "intellectual disability" and permits a person with an intellectual disability to participate in a forensic diversion program. It authorizes a prosecuting attorney to require a person participating in a prosecutorial diversion program to receive mental health treatment to reduce recidivism, and permits diversion and deferral fees to be used to fund mental health treatment programs to reduce recidivism.
- B. *Court-Appointed Special Advocates for Persons with Intellectual Disabilities* – The bill permits a criminal court to appoint a court-appointed special advocate to assist a person with an intellectual disability who is charged with a criminal offense.

Effective Date: July 1, 2015.

Explanation of State Expenditures:

Explanation of State Revenues:

Explanation of Local Expenditures: *Forensic Diversion Program for Persons with Intellectual Disabilities*— This provision extends eligibility to persons with intellectual disabilities to the forensic diversion programs that operate under the community correction program in its county.

Each forensic diversion advisory board would be required to develop a plan to allow persons with an intellectual disability to be in either a pre-conviction or post-conviction program instead of or in addition to

incarceration. Each community corrections board is considered by statute to be a forensic diversion advisory board. Eighty-four counties have community corrections programs, some as multi-county organizations.

Persons with intellectual disabilities would be eligible for both pre- and post-conviction forensic diversion programs. For pre-conviction programs, the offense for which the person is accused can be either a nonviolent misdemeanor or a nonviolent Level 6 felony that may be reduced to a Class A misdemeanor, and the person cannot have been convicted of a violent felony within the past ten years.

For persons who successfully complete a pre-conviction forensic diversion program, the court may waive entry of judgment of conviction and dismiss the charges. For post-conviction programs, a person is eligible if the offense is neither violent nor involves drug dealing and the person does not have a conviction for a violent crime in the past ten years.

Under a post-conviction forensic diversion program, the person may be required to participate in the program for two years if the offense was a misdemeanor and three years maximum if the offense is a felony.

LSA cannot estimate the number of persons who might be affected by this provision.

The forensic diversion program is a component of community corrections programs statewide. The total costs of community corrections for FY 2014 are shown in the following table.

Community Corrections Expenditures by Funding Source				
Total State Dollars	Total Project Income	County General	Other Funds	Total Expenditures
\$32.58	\$22.64	\$7.90	\$0.24	\$63.36

Between March and December of 2014, 16 community correction agencies reported to Department of Correction (DOC) that they provided forensic diversion programs for persons in their counties. Other support agencies include 192 providers who are certified in Indiana by DMHA to provide services to persons with substance addictions, as well as 25 community mental health centers in Indiana.

Court-Appointed Special Advocates (CASA) for Persons with Intellectual Disabilities – Courts would be permitted to establish CASA programs for persons with intellectual disabilities. This provision is not a mandate.

The Indiana Supreme Court’s Division of State Court Administration reports that 79 counties had volunteer guardian ad litem/CASA programs serving abused and neglected children in CY 2013. Of these programs, there are 243 full- and part-time personnel and 3,450 active volunteers.

In CY 2013 these programs served 16,374 children in CHINS cases and 1,362 children in termination of parental rights cases.

Explanation of Local Revenues: The bill provides that a court may order persons assisted by a court-appointed special advocate to pay a user fee. Under the existing guardian ad litem/CASA statute, IC 31-40-3-1, the juvenile court may order the parent or the guardian of the estate of any child to pay a user fee of \$100 to the county probation department if guardian ad litem or court-appointed special advocate services are provided. Staff in the Division of State Court Administration report that the fee is rarely collected

because most of these cases involve children from low-income families.

State Agencies Affected:

Local Agencies Affected: Community correction agencies; trial courts; prosecuting attorneys.

Information Sources: Department of Correction; 2013 *Indiana Judicial Report*; Division of Mental Health and Addictions.

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